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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,927	05/24/2001	Lee E. Cannon	29757/ AG32-CIP	2424
4743 7590 07/26/2007 MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			EXAMINER NGUYEN, DAT	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 07/26/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 09/864,927	Applicant(s) CANNON ET AL.	
	Examiner Dat T. Nguyen	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 34,35,38 and 55-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34,35,38 and 55-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/14/2007 has been entered.

### ***Response to Amendment***

This office action is responsive to the amendments filed on 05/14/2007 in which applicant amends claims 34 and 35, cancels claim 67 and responds to the claim rejections. Claims 34, 35, 38 and 55-66 are pending.

### ***Claim Rejections - 35 USC § 112***

Claims 34, 35, 38 and 55-66 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 34 recites, "the preselected game outcome preselected without regard to a payout associated with the preselected game outcome," which applicant claims to be supported by paragraph [0071] of the instant specification. However, the examiner is unable to find wherein the cited passage or the specification does it state that the preselected game outcome for

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initiating the second rate of play is preselected without regard to a payout associated with the preselected game outcome. The passage states, "one or more specific outcomes on a game or one or more particular "winning combinations" may be used lead to a bonus situation..." however the cited passage does not enable or make it obvious to one of ordinary skill in the art to preselect the outcome without regard to the payout associated with the preselected game outcome.

Claims 35, 38 and 55-66 are rejection for being dependent on rejected claim 34.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 34, 35, 38, 55-59 and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal (WO-98-00210) in view of Okada (US 4,508,345).**

Regarding claim 34, Pascal discloses a system and method of tournament gaming (abstract) comprising:

- Providing a plurality of gaming devices adapted for tournament play and configured to play at least one game of chance at variable rates of play (page 1, 1-35);
- Initiating a tournament game of chance on at least one gaming device of the plurality of gaming devices (page1, 1-35); and

- Playing the tournament game of chance at a first permitted rate of play as permitted by gaming device circuitry, relative to which the actual rate of play may vary (page 1, 1-35).

Pascal fails to disclose:

Playing the tournament game of chance at a first permitted rate of play and changing the rate of play to a second permitted rate of play automatically in response to one occurrence of a game outcome of a plurality of game outcomes that may result when the at least one game of chance is played matching a preselected game outcome from the plurality of game outcomes, the preselected game outcome preselected without regard to a payout associated with the preselected game outcome.

In a related patent, Okada teaches a slot machine with a bonus feature initiator combination ("SKILL.STOP", 2:10-35), which initiates an additional feature that alters the rate of play of the game machine from a first permitted rate of play to a second different rate of play that may be different from the actual rate of play (reel speed, 2:10-35). The initiator combination is for initiation of the bonus feature and is selected without regard to a payout (Okada teaches that they symbols for bonus initiation may be a plurality of things such as a series of cherries, lemons, or characters or figures, or 7's without regard towards the payout). Okada and Pascal are analogous art because they both disclose devices for games of chance related to the player rate of play. Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include a rate of play altering feature initiated by a feature initiation combination of Okada into the tournament game of Pascal in order to introduce

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variances into the tournament play of Pascal and increase player interest and excitement.

Regarding claim 35, wherein the second permitted rate of play reverts to the first rate of permitted play automatically in response to occurrence of at least one other game outcome. Okada teaches that the feature is a bonus feature and therefore the feature will eventually expire and return to normal function of the game after at least one game outcome.

Regarding claim 38, Pascal discloses end of the tournament game after a predetermined time interval. Therefore the bonus feature would also expire after a predetermined time interval since the game would end and revert back to normal play as disclosed by Pascal (page 3:1-35).

Regarding claim 55, wherein the second permitted rate of play reverts to the first permitted rate of play after a number of plays are initiated on the at least one gaming device. This feature is inherent in the combination of Pascal in view of Okada as Pascal discloses that the game reverts back to normal operation after the expiration of the tournament and therefore any bonus or abnormal operation is to be terminated. Further the teaching of Okada requires that at least one instance of the bonus be initiated due to the bonus feature and so the number of plays maybe 1.

Regarding claim 56, Pascal and Okada fail to disclose the second permitted rate of play being faster than the first, however it is notoriously well known in the art as well as motivated by Pascal to increase the permitted rate of play as a bonus feature since it is the objective of the game of Pascal to play the game as quickly as possible to

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accumulate points to win a tournament (Pascal, page 2:11-25) and so such a bonus feature would be obvious to one of ordinary skill in the art given the teachings of Okada that enables on to alter the permitted rate of play of the game. Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to increase the permitted rate of play in response to the bonus outcome as to allow players to play faster and attain a competitive edge.

Regarding claim 57, Pascal is further silent regarding the second permitted rate of play being slow then the first permitted rate of play. As discussed above, Okada is analogous art with Pascal. Okada teaches that the second permitted rate of play may be slower than the first permitted rate of play as to allow players the perceived benefit of having likely desirable symbols to occur thereby giving some worth of the bonus feature in the view of the player (2:10-35). Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide a bonus feature wherein the game's permitted rate of play is altered from a first speed to a second slower speed in order to increase the likelihood that desired symbols or combinations of symbols on the respective reels will occur (Okada 2:20-26).

Regarding claim 58, Pascal discloses that the tournament game of chance is at least one of a reel-type game and a card game (page 1:10-15 and 4:5-15).

Regarding claim 59, Pascal fails to explicitly disclose automatically initiating play at the second permitted rate of play irrespective of player input when the second permitted rate of play is permitted. As discussed above, Okada is analogous art with Pascal. Okada teaches that the initiation of the bonus feature at the second rate of play may be

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done automatically (2:25-35). Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to automatically initiate play of the game at the second permitted rate of play irrespective of player input in order to allow players to enjoy the excitement of the bonus feature without having to be bothered by the requirement for player input.

Regarding claim 64, Pascal discloses qualifying for play in the tournament game by tendering a wager (page1:12-14).

Regarding claim 65, Pascal teaches qualifying for play in the tournament game by playing (current players) the at least one game of chance on the at least one gaming device (page 4:1-3, page5:18-21, 30-38).

**Claims 60-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal (WO-98-00210) in view of Okada (US 4,508,345) as applied to claim 34 above and further in view of Angell, Jr. (US 6,368,218 B2).**

Pascal and Okada are silent regarding the play of the game tournament at some minimum rate of play. That is, if the play of the game is below a minimum rate of play, the game machine conducts play at the minimum rate of play automatically. In a related patent, Angell teaches the play of a game tournament wherein players are required to play at some minimum rate of play else the game machine will automatically conduct play of the tournament for them (4:7-16). Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the automatic minimum rate of play feature of Angell with the tournament and bonus feature of Pascal



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in view of Okada in order to not completely disadvantage players who are not as fast as other players due to physical or other differences.

Regarding claim 62, Pascal in view of Okada and Angell discloses the claimed invention except for the automated minimum rate of play comprising a percentage of a standard rate of play of at least one game of chance. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the above cited feature since it is well known in the art that minimum, by definition, is the smallest number in a finite set of numbers and has a value that is less than any other value of a function over a specific interval and average/standard, by definition is the intermediate between two extremes. Mathematically speaking, having a minimum rate comprising the percentage of a standard rate is well known and would have been obvious.

**Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal (WO-98-00210) in view of Okada (US 4,508,345) and Angell, Jr. (US 6,368,218 B2) as applied to claims 34 and 60-62 above, and further in view of Giacalone, Jr. (US 5,758,875).**

Pascal, Okada, and Angell meet the claimed limitations as discussed above, however they fail to explicitly disclose sampling rates of play of the at least one game of chance on at least some of the plurality of gaming devices and deriving the standard rate of play from the sampling. However in a related patent, Giacalone teaches a dynamic rate control method and apparatus for electronic games of chance which take samples of the rate of play of the gaming device to obtain a standard rate of play and

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adjust the rate of play accordingly (3:14-17). Giacalone is related to the prior art because it pertains to adjustments of rates of play for electronic gaming machines, therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to obtain a standard rate of play using sampling techniques taught by Giacalone in the device of Pascal in view of Okada and Angell in order to obtain a more realistic and accurate standard rate of play measurement.

**Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal (WO-98-00210) in view of Okada (US 4,508,345) as applied to claims 34 and 65 above, and further in view of Lermusiaux (US 6,135,885).**

Pascal in view of Okada meets the claimed limitations as discussed above and Pascal further discloses various ways (parameters) one can qualify for the tournament, but fails to explicitly recite qualifying for play in response to a at least one selected game outcome. In a related patent, Lermusiaux teaches a secondary game (football) which is entered upon the occurrence of a selected game outcome (football indicia, fig. 3). Lermusiaux and Pascal are analogous art because they both teach games of chance with secondary games and entrance conditions into said secondary games, therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the secondary game entrance combination requirement of Lermusiaux with the tournament game of Pascal in view of Okada in order to introduce a variance into the game whereby increasing player interest and excitement. This can be achieved by the addition of said feature of Lermusiaux because entrance

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into a game that only requires a fee or the presence of a player does not make the entrance into the game as exciting as if it would have been if a random feature such as the entrance combination taught by Lermusaïux.

### ***Response to Arguments***

Applicant's arguments filed 05/14/2007 have been fully considered but they are not persuasive.

Applicant's arguments pertain to the initiation of altered rates of play in response to selected game outcomes, akin to a bonus feature, is not taught by Pascal in view of Giacalone. However, as discussed in the instant rejection of Pascal in view of Okada, such limitations are covered by the combination as necessitated by amendment.

Please see the rejection statement regarding claim 34 in the instant rejection.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dat T. Nguyen whose telephone number is (571) 272-2178. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dat Nguyen



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